

DIVISION IV

ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
TERRY CRABTREE, JUDGE

CA CR 05-1186

April 19, 2006

THOMAS ADAMS, JR.
APPELLANT

APPEAL FROM THE CIRCUIT COURT
OF PULASKI COUNTY
[NO. CR2004-5063]

V.

HONORABLE JOHN W. LANGSTON,
JUDGE

STATE OF ARKANSAS
APPELLEE

AFFIRMED

Appellant Thomas Adams, Jr. was found guilty by a jury in Pulaski County of first-degree battery. As an habitual offender, he was sentenced to thirty years in prison. Appellant's only argument on appeal is that the evidence is insufficient to show that the victim suffered serious physical injury. We affirm because there is substantial evidence to support the verdict of guilt.

On October 21, 2004, appellant's wife, Tanisha Adams, was moving out of the home that she had been renting. She and appellant were separated, and she had been dating Isaac Ray Senior since August. Senior had been helping Tanisha move and was sitting in his vehicle when he heard screams coming from inside the house. Senior ran inside the house and found appellant in the bedroom beating Tanisha, who said that appellant had entered the residence by way of the back door. Appellant and Senior began fighting, ending up in the kitchen where appellant grabbed a steak knife from the sink and stabbed Senior two times in the upper body. Appellant ran, but before leaving the premises, he used a brick to break one of the windows in Senior's vehicle.

Little Rock Patrolman Roger Wallis arrived at the residence to find Senior on the front porch. Wallis observed that Senior had a small stab wound to the chest and a much deeper one under his left arm, which was bleeding quite a bit. To Wallis, Senior was in "bad shape" and was rapidly becoming much worse. Because of Senior's condition, Wallis was not able to conduct any

investigation of the incident. Instead, he applied pressure to the wounds and comforted Senior until the ambulance arrived.

Dr. Deborah Cunningham was the attending surgeon on call at the emergency room. She testified that Senior was quite ill when he came into the hospital. She said that both of his lungs had collapsed and that he was on a course for cardio-respiratory collapse, which could have caused death if not treated. Dr. Cunningham explained that, when the lungs collapse, pressure inside the chest builds which causes the heart to function improperly. She said that, as the pressure increases, it squeezes off the heart's ability to function, and so it stops. To relieve the pressure, she inserted tubes into Mr. Senior's chest to drain the air and reinflate his lungs. Senior responded immediately with improved blood pressure and heart rate. Because he responded so well, he was placed for two nights in a step-down unit, which is an intermediate level of care between the ICU and a regular floor bed, so that he could be monitored for injuries that might have manifested within twenty-four hours. Senior was released from the hospital after four days. Dr. Cunningham stated that Senior's injuries were serious and life-threatening that "could most definitely cause death without question."

When an appellant challenges the sufficiency of the evidence to support a conviction on appeal, this court's test is whether there is substantial evidence to support the verdict. *Payne v. State*, 86 Ark. App. 59, 159 S.W.3d 804 (2004). Evidence is substantial if it is of sufficient force and character to compel reasonable minds to reach a conclusion and pass beyond suspicion and conjecture. *Jordan v. State*, 356 Ark. 248, 147 S.W.3d 691 (2004). In determining the sufficiency of the evidence, we view the evidence in the light most favorable to the State and consider only that evidence tending to support the verdict. *Porter v. State*, 356 Ark. 17, 145 S.W.3d 376 (2004).

A person commits battery in the first degree if, with the purpose of causing serious physical injury to another person, he causes serious physical injury to any person by means of a deadly weapon. Ark. Code Ann. § 5-13-201(a)(1) (Repl. 1997). "Serious physical injury" means physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or loss or protracted impairment of the function of any bodily member or

organ. Ark. Code Ann. § 5-1-102(21) (Supp. 2005). Whether a victim has suffered serious physical injury is for the jury to decide. *Brown v. State*, 347 Ark. 308, 65 S.W.3d 394 (2001).

Appellant contends on appeal that there is insufficient evidence that Mr. Senior sustained serious physical injury. Appellant argues that, although there is evidence that there was some risk of death associated with his injuries, there is no evidence that the risk of death was substantial. We disagree. Both of Mr. Senior's lungs had collapsed as a result of the stab wounds inflicted by appellant. Dr. Cunningham plainly testified that Senior's condition was such that he was on a course of impending cardio-respiratory collapse, and potentially death, had the resulting build-up of pressure not been alleviated. Further, she described the injuries as "serious" and "life-threatening." We hold that there was substantial evidence from which the jury could conclude that Mr. Senior's injuries created a substantial risk of death.

Affirmed.

GLADWIN and VAUGHT, JJ., agree.